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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,064	04/12/2002	Jeremy Dennis Bartlett	Q68069	6007

7590 05/08/2006

Sughrue Mion  
2100 Pennsylvania Avenue NW  
Washington, DC 20037-3202

EXAMINER
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THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/031,064

Applicant(s)

BARTLETT, JEREMY DENNIS

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |



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Claims 1-4, 9, 10 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wallsten (UK 2135585). Wallsten discloses first and second sets of mutually counter rotating metallic filaments (page 8, lines 13-23) in which some or all of the filament ends are fixed together in pairs (page 5, lines 24-32) by placing the filaments adjacent to and substantially parallel to one another (since each pair of filament ends are heat welded (i.e. fused) to a U-shaped member and since the sides of a U are substantially parallel to one another and further comprising a join (the bottom of the U-shaped member) at each end fixing to retain the ends of the filaments in contact with one other, wherein each pair of filament ends is arranged as two substantially straight, coplanar lines (since the sides of a U are substantially straight and coplanar). Alternatively, it would have been obvious that the filaments are substantially parallel to one another since the sides of a U are substantially parallel to one another. As to claim 2, the filaments are biased toward the expanded configuration and therefore the respective filaments are biased out of alignment with the adjacent filament.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallsten (UK 2135585) in view of Wallsten et



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al. (5,061,275). Wallsten (UK 2135585) fails to disclose the filaments bending outwardly. However, Wallsten et al. (5,061,275) teach that the ends of filaments of a stent, when unloaded, should bend radially outwardly so that it has the advantage that when implanted, it will have a substantially constant diameter. Further, this arrangement has the apparent advantage of providing a better securement of the ends of the stent with the body conduit. It would have been obvious to so shape the Wallsten (UK 2135585) filaments so that it too would have these advantages.

Claims 5-8 and 12 are allowed.

Applicant's arguments filed Feb. 24, 2006 have been fully considered but they are not persuasive. When a Wallsten U-shaped member is joined to two free filament ends by heat welding, the filaments fuse to the U-shaped member making the claimed "ends of the filaments" the sides of the U-shaped member and the claimed "join" the bottom of the U-shaped member.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action



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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht  
5/2/06



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731